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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,196	03/17/2004	Frederick J. Rozario	GP-303650	3413

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EXAMINER

ALI, HYDER

ART UNIT PAPER NUMBER

3747

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/802,196

Applicant(s)

ROZARIO ET AL.

Examiner

HYDER ALI

Art Unit

3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 7-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Inventorship***

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**1. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albertson et al (US 6,557,518) in view of Sonoda et al (US 4,729,349).**

Albertson et al discloses a system for control of oil pressure in engines having cylinder deactivation hydraulic lifters 22,28, the system comprising: an oil pump 34 driven by the engine and supplying pressurized oil to an oil gallery for lubricating selected engine components and controlling actuation of cylinder deactivation valve

lifters 22,38; an oil pressure control 36 associated with the oil pump 34 and operative to control oil pressure supplied to the oil gallery under normal operating temperatures.

Albertson et al does not disclose an auxiliary pressure relief valve in the system and operative to maintain oil pressures at high engine speeds and low oil temperatures below a maximum allowable pressure, thereby permitting actuation of the deactivation lifters. However, Sonoda et al discloses an auxiliary pressure relief valve 37 in the system and operative to maintain oil pressures at high engine speeds and low oil temperatures below a maximum allowable pressure, thereby permitting actuation of the deactivation lifters 17a,17b. See column 8, lines 10-25. It would have been obvious to a person having ordinary skill in the art to modify Albertson et al by employing an auxiliary pressure relief valve 37 in the system and operative to maintain oil pressures at high engine speeds and low oil temperatures below a maximum allowable pressure, thereby permitting actuation of the deactivation lifters 17a,17b as taught by Sonoda et al in order to provide auxiliary pressure relief valve operative to control oil pressures at high engine speeds and low temperatures.

With regard to Claim 2, Sonoda et al discloses the auxiliary pressure relief valve 37 is connected with a main oil gallery.

With regard to Claim 3, Sonoda et al discloses the auxiliary pressure relief valve 37 is connected with a valve lifter gallery 36.

**2. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Albertson et al (US 6,557,518) in view of Sonoda et al (US 4,729,349).**

Albertson et al discloses supplying pressurized oil to an oil gallery from an engine driven positive displacement oil pump 34 for lubricating selected engine components and controlling actuation of the cylinder deactivation valve lifters 22,38; limiting output of the pump 34 by bypassing 36 excess oil to control oil pressure supplied to the oil gallery under normal operating oil temperatures.

Albertson et al does not disclose limiting pressure in the system at high engine speeds and low oil temperatures by opening an auxiliary pressure relief valve in the system operative at reduced operating oil temperatures to maintain oil pressures below a maximum allowable pressure, thereby permitting actuation of the deactivation valve lifters. However, Sonoda et al discloses limiting pressure in the system at high engine speeds and low oil temperatures by opening an auxiliary pressure relief valve 37 in the system operative at reduced operating oil temperatures to maintain oil pressures below a maximum allowable pressure, thereby permitting actuation of the deactivation valve lifters 17a,17b. See column 8, lines 10-25. It would have been obvious to a person having ordinary skill in the art to modify Albertson et al by employing limiting pressure in the system at high engine speeds and low oil temperatures by opening an auxiliary pressure relief valve 37 in the system operative at reduced operating oil temperatures to maintain oil pressures below a maximum allowable pressure, thereby permitting actuation of the deactivation valve lifters 17a,17b as taught by Sonoda et al in order to provide the step of limiting system pressures by opening an auxiliary pressure relief valve.

***Allowable Subject Matter***

Claims 4,5 and 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection. Sonoda et al discloses an auxiliary pressure relief valve 37 operative to control oil pressures at high engine speeds and low temperature, as claim 1 requires. Sonoda et al further discloses the step of limiting system pressures by opening an auxiliary pressure relief valve as claim 6 requires.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HYDER ALI whose telephone number is (571) 272-4836. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HENRY YUEN can be reached on (571) 272-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hyder M.

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